IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.11958 of 1998

Dated: 20-03-2007

Between:

1. Kuppuswamy Satyaseelan, s/o Kuppuswamy,
aged about 48 years,
r/o Nissankadurgam village,
Karvetinagar Mandal,
Chittoor District and 4 others.

... Petitioners

and

1. The District Collector, Chittoor and another.

... Respondents

ORDER:

Heard learned counsel for the parties.

2. Petitioners state that as they are landless poor persons and on their applications, the then Tahasildar, Puttur, after conducting a detailed enquiry, assigned lands in an extent of Ac.4-36 in S.No.398/1; Ac.4-40 in S.No.404; Ac.5-00 in S.No.405 and Ac.3-50 in S.No.400 in favour of them during 1981 and that they were in possession of the said lands even before the assignment. They further state that while so, the then Tahasildar, Puttur

vide proceedings in Roc.No.A3/7557/83, dated 16-06-1984 cancelled the pattas granted in favour of them on the ground that they have not brought the land under cultivation within a period of three years from the date of assignment. Assailing the said orders,

they filed an appeal before the Revenue Divisional Officer, Chittoor and the Revenue Divisional Officer set aside the order of the then Tahasildar vide orders in D.Dis.No.2503/92 dated 26-08-1992 and D.Dis.No.3063/84, dated 06-06-1992. They also state that third petitioner made an application to second respondent on 25-10-1997 for issuance of pattadar passbook. As second respondent, without issuing pattadar passbook, is threatening to dispossess petitioners from the lands in question, they filed the present writ petition seeking a *mandamus* declaring the action of second respondent in threatening to dispossess them from the lands in question even though pattas granted in favour of them is in force, as illegal and arbitrary and consequently direct respondents not to dispossess petitioners without following due process of law.

3. This Court, on 10-06-1998 while issuing *Rule nisi,* in W.P.M.P. No.14484 of 1998 directed respondents to maintain *status* quo in all respects until further orders.

4. A detailed counter affidavit is filed on behalf of respondents wherein the facts are admitted. It is stated in the counter affidavit that, after the appeal was allowed on 26-08-1992, petitioners have not come to the lands and were doing agricultural operations. For the first time after a period of five years i.e. in the year 1987, they filed application for issuance of pattadar passbooks, but as the said land is not under cultivation, second respondent - Mandal Revenue Officer refused to grant pattadar passbooks and also said that they have to vacate the lands in question.

5. May be it is true that petitioners have come forward for the first time

for issuance of pattadar pass books only in 1997, but it does not mean that the lands in question are not in occupation of petitioners. When the Mandal Revenue Officer – second respondent wants to cancel the said assignment on the ground that there is some violation of the conditions, he has to issue a notice and follow the due procedure and then evict them. In my considered view, in the instant case, when once the appellate authority has held that the assignment made in favour of petitioners is in accordance with law as per the order dated 26-08-1992, if the Mandal Revenue Officer wants to take subsequent facts into consideration, he must necessarily issue a notice before evicting the petitioners.

6. Accordingly, the writ petition is allowed and second respondent is directed not to evict the petitioners without following the due procedure under law. No costs.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.20-03-2007
GLV